

### **REMARKS**

This Amendment and the following remarks are intended to fully respond to the Office Action mailed March 30, 2010, hereinafter "Office Action." In that office action, claims 1-12, 14-24, and 26-34 were examined and all claims were rejected. More specifically, claims 1, 7, 14, 19, 26, and 32, were rejected under 35 U.S.C. § 103(a) as being unpatentable over Chesnais et al., U.S. Pub. No. 20020087704, (hereinafter "Chesnais") in view of Bird (previously disclosed). Claims 10-11 and 22-23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Chesnais in view of Miralles (previously disclosed) and Bird. Claims 2-4, 6, 15-16, 18, 27-29, and 31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Chesnais and Bird in further view of Miralles. Claims 5, 8-9, 17, 20, 30, and 33-34 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Chesnais and Bird in view of Wood, International Publication No. WO 03/001819 (cited by applicant). Entry of the above amendments, and reconsideration of the claim rejections, as they might apply to the original and amended claims in view of these remarks, is respectfully requested. Claims 1-12, 14-24, and 26-34 remain in the application.

Reconsideration of these rejections, as they might apply to the original and amended claims in view of these remarks, is respectfully requested.

In this Response, no claims have been amended, added, or cancelled. Therefore, claims 1-12, 14-24, and 26-34 remain present for examination.

No new matter has been introduced through any of these claim amendments.

#### **Filing date of Bird reference under §102(a)-(b)**

Applicant respectfully submits that Bird is not prior art because the priority date of Bird is after the filing date of the present application. Bird is an international application that designates Australia and not the United States. As such, Bird does not fall under the gambit of §102(e) and is, therefore, not afforded the PCT filing date for §102(e) purposes. Instead, Bird falls under §102(a)-(b) and its priority date is either the date of publication or date of issue. The PCT application to Bird published on May 2, 2004 and the Australian application to Bird published on February 16, 2004. Both of these dates are after the January 16, 2004 filing date of

the present application. Applicant respectfully requests the withdrawal of Bird as a reference because its priority date is not before the filing date of the present application.

**Rejection of Claims Under 35 U.S.C. §103(a)**

All the claims were rejected under 35 USC § 103(a) as being anticipated by Chesnais in combination with other references. Applicant respectfully traverses the § 103(a) rejections of the claims because the Office Action failed to state a *prima facie* case of obviousness. Specifically, the references fail to teach all of the claimed elements. To establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a), the references must teach all of the claimed elements to one of ordinary skill in the art at the time the invention was made. M.P.E.P. §§ 2142, 2143.03. Further, under *KSR Int'l Co. v. Teleflex, Inc.*, there “must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” 127 S. Ct. 1727, 1741 (2007).

**Independent Claims 1, 14, and 26**

Claims 1, 7, 14, 19, 26, and 32, were rejected under 35 U.S.C. § 103(a) as being unpatentable over Chesnais in view of Bird. Applicant’s traverse the § 103 rejection because the Office Action has failed to cite prior art references that teach all the limitations of independent claims 1, 7, 14, 19, 26, and 32.

Chesnais relates to “systems and methods for routing a message to a communications device.” (Chesnais, Abstract). In Chesnais, a message is generate at a “sender communication device.” (Chesnais, para. [0038]). The “system” then receives the message and redirects to at least one recipients communication device. *See id.* In Chesnais, both the sender and receiver can consist any of a plurality of communication devices. (Chesnais, FIG. 1). The messages in Chesnais can be both received in forwarded in “ a variety of communication protocols via a variety of communication channels.” (Chesnais, para. [0039]).

**Claim 1**

Claim 1 recites, *inter alia*:

receiving a response readable by the originating system that indicates a status of delivery of the two or more short messages, wherein said response has one or more result elements, and further wherein each said result element has one or more child elements representing details of said result element, wherein a first child count element of a first result element indicates a number of the two or more short messages delivered successfully, and a second child count element of a second result element indicates a number of the two or more short messages unsuccessfully delivered, and wherein the response has one or more error cause elements comprising an indication of the cause of an error that resulted in unsuccessful delivery of the short messages unsuccessfully delivered.

As admitted in the previous Office Action, Chenais fails to teach or suggest at least the recited element of independent claim 1. The Office Action relied on Bird for this disclosure. As discussed above, the Bird priority date is not before the filing date of the present application. Therefore, the Bird reference is not prior art. For at least these reasons, the Office Action has failed to cite prior art references that teach or suggest all the claimed embodiments of independent claim 1. Applicant respectfully requests a withdrawal of the rejection for independent claim 1, and its dependent claims 2-9, and an issuance of allowance at the Examiner's earliest convenience.

#### Claim 14

Claim 14 recites, *inter alia*:

receive a response readable by the originating system that indicates a status of delivery of the two or more short messages, wherein said response has one or more result elements, and further wherein each said result element has one or more child elements representing details of said result element, wherein the response identifies the number of the two or more short messages that were unsuccessfully delivered, and wherein the response has one or more error cause elements comprising an indication of the cause of an error that resulted in unsuccessful delivery of the short messages unsuccessfully delivered.

The recited elements of independent claim 14 are similar to the recited elements of independent claim 1. For similar reasons as independent claim 1, the Office Action fails to cite prior art references that teach or suggest all the limitations of independent claim 14. Applicant

respectfully requests a withdrawal of the rejection of independent claim 14, and its dependent claims 15-21, and an issuance of a notice of allowance, at Examiner's earliest convenience.

Claim 26

Claim 26 recites, *inter alia*:

receiving a response readable by the originating system that indicates a status of delivery of the two or more short messages, wherein said response has one or more result elements, and further wherein each said result element has one or more child elements representing details of said result element, wherein a first child count element of a first result element indicates a number of the two or more short messages delivered successfully, and a second child count element of a second result element indicates a number of the two or more short messages unsuccessfully delivered, and wherein the response has one or more error cause elements comprising an indication of the cause of an error that resulted in unsuccessful delivery of the short messages unsuccessfully delivered.

The recited elements of independent claim 26 are similar to the recited elements of independent claims 1 and 14. For similar reasons as independent claims 1 and 14, the Office Action fails to cite prior art references that teach or suggest all the limitations of independent claim 26. Applicant respectfully requests a withdrawal of the rejection of independent claim 26, and its dependent claims 27-34, and an issuance of a notice of allowance, at Examiner's earliest convenience.

Independent Claims 10 and 22

Claims 10-11 and 22-23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Chenais in view of Miralles and Bird. As previously discussed with respect to claims 1, 14, and 26, Chenais fails to teach "generating a response readable by the web service client and indicating a status of delivery of the two or more short messages, wherein said response has one or more result elements, and further wherein each said result element has one or more child elements representing details of said result element, wherein a first child count element of a first result element indicates a number of the two or more short messages delivered successfully, and a second child count element of a second result element indicates a number of the two or more short messages unsuccessfully delivered, and wherein the response has one or more error cause

elements comprising an indication of the cause of an error that resulted in unsuccessful delivery of the short messages unsuccessfully delivered;" as recited in independent claim 10 and Bird is not prior art with respect to the present application.

Miralles fails to compensate for the deficiency of Chenais and Bird. Miralles relates to transmitting short messages between a remote server and a mobile telephone user that is in communication with a short message service center via a GSM network. However, the Office Action does not show that Miralles teaches "generating a response readable by the web service client and indicating a status of delivery of the two or more short messages, wherein said response has one or more result elements, and further wherein each said result element has one or more child elements representing details of said result element, wherein a first child count element of a first result element indicates a number of the two or more short messages delivered successfully, and a second child count element of a second result element indicates a number of the two or more short messages unsuccessfully delivered, and wherein the response has one or more error cause elements comprising an indication of the cause of an error that resulted in unsuccessful delivery of the short messages unsuccessfully delivered". For at least this reason, independent claim 10 is allowable over the cited references. Applicant respectfully requests a withdrawal of the rejection for independent claim 10, and its dependent claims 11-12, and an issuance of a notice of allowance at Examiner's earliest convenience.

For at least similar reasons as those noted above for claim 10, independent claim 22 is also allowable over the cited references. Independent claim 22 recites, *inter alia*, "generate a response readable by the web service client that indicates a status of delivery of the two or more short messages, wherein said response has one or more result elements, and further wherein each said result element has one or more child elements representing details of said result element, wherein a first child count element of a first result element indicates a number of the one or more short messages delivered successfully, and a second child count element of a second result element indicates a number of the one or more short messages unsuccessfully delivered, and wherein the response has one or more error cause elements comprising an indication of the cause of an error that resulted in unsuccessful delivery of the short messages unsuccessfully delivered". Thus, independent claim 22 is allowable over the cited references. Applicant respectfully

requests withdrawal of the rejection of independent claim 22, and its dependent claims 23-24, and an issuance of a notice of allowance at Examiner's earliest convenience.

For at least the foregoing reasons, independent claims 1, 10, 14, 22, and 26 are allowable over the cited references. While the Office Action relied upon other references to reject some of the dependent claims, Applicants submit that the other references fail to compensate for the deficiencies of Chenais, Bird, and Miralles. Thus, applicants respectfully request that the Examiner issue a notice of allowance at his earliest convenience. Furthermore, dependent claims 2-9, 11-12, 15-21, 23-24, and 27-34 depend from one of allowable claims 1, 10, 14, 22, and 26, and thus are allowable for at least the same reasons as discussed. Applicants therefore respectfully request that the Examiner issue a notice of allowance for all claims at his earliest convenience.

**CONCLUSION:**

This Amendment fully responds to the Office Action mailed on March 30, 2010. Still, that Office Action may contain arguments and rejections that are not directly addressed by this Amendment due to the fact that they are rendered moot in light of the preceding arguments in favor of patentability. Hence, failure of this Amendment to directly address an argument raised in the Office Action should not be taken as an indication that the Applicant believes the argument has merit. Furthermore, the claims of the present application may include other elements, not discussed in this Amendment, which are not shown, taught, or otherwise suggested by the art of record. Accordingly, the preceding arguments in favor of patentability are advanced without prejudice to other bases of patentability.

Thus, a bona-fide attempt has been made to ensure that the application meets all statutory requirements and is in condition for allowance. The Examiner's early indication to that effect is, therefore, courteously solicited. If a telephone conference would expedite allowance or resolve any additional questions, such a call is invited at the Examiner's convenience.

Applicant does not believe that any fees are due with this response. If this is not the case, please charge all required fees, or fees under 37 C.F.R. 1.17, or all required extension of time fees due, or credit any overpayment to, deposit account 13-2725. Please consider this a Petition For Extension Of Time for a sufficient number of months to enter this correspondence, or any future reply, if appropriate, for an extension of time for its timely submission.

Respectfully submitted,

Dated: June 30, 2010



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